

Message Text

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STR-07 ITC-01 TRSE-00 USIA-15 SP-02 SOE-02 OMB-01
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USEEC

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TAGS: SENV, EEC
SUBJECT: US-EEC COOPERATION ON TOXIC SUBSTANCES CONTROL

1. THE FOLLOWING ARTICLE APPEARED MARCH 18 IN EUROPEAN
REPORT, A BIWEEKLY PUBLICATION DEVOTED TO THE EUROPEAN
COMMUNITY. IT PRESENTS A FAIRLY ACCURATE PICTURE OF THE
EC COMMISSION'S AND THE CHEMICAL INDUSTRIES' ATTITUDES
AND EXPECTATIONS FOR US-EC COOPERATION.

BEGIN TEXT

CHEMICALS: EEC/US COOPERATION ON TOXIC SUBSTANCES CONTROL

THE COMMISSION IS PUTTING THE FINAL TOUCHES TO ITS RE-
QUEST TO THE COUNCIL FOR A NEGOTIATING MANDATE FOR CLOSER
COOPERATION WITH THE USA IN DEVELOPING "PARALLEL" LEGIS-
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LATION COVERING THE CONTROL OF TOXIC SUBSTANCES. THE US
HAS ALREADY PASSED A TOXIC SUBSTANCES CONTROL ACT (TOSCA),
BUT THE PROVISIONS OF THIS HAVE STILL TO BE IMPLEMENTED.
THE COMMISSION HAS MADE GENERAL PROPOSALS FOR CONTROL OF
TOXIC SUBSTANCES, WHICH ARE INCORPORATED IN THE SIXTH
MODIFICATION TO THE 1967 DIRECTIVE ON THE CLASSIFICATION,
PACKAGING AND LABELLING OF DANGEROUS SUBSTANCES. THESE

ARE CURRENTLY BEFORE THE COUNCIL AND HAVE NOT YET BEEN ADOPTED. THE MAIN CONCERN OF BOTH THE US AND THE EEC IS TO TRY TO ALIGN THEIR RESPECTIVE CONTROL REGULATIONS TO AVOID FORMING NEW TECHNICAL TRADE BARRIERS. THE COMMISSION IS DUE TO PRESENT ITS REQUEST FOR A NEGOTIATING MANDATE ON MARCH 21. IN THE MEANTIME, EUROPEAN INDUSTRY, REPRESENTED BY THE EUROPEAN COUNCIL OF CHEMICAL MANUFACTURERS' FEDERATIONS (CEFIC), HAS A WORKING GROUP LOOKING INTO THE QUESTION OF US/EEC COOPERATION. THIS IS DUE TO PRESENT ITS REPORT TO A MEETING SCHEDULED FOR MARCH 31, WHERE CEFIC WILL ADOPT AN OFFICIAL POSITION ON THE COMMISSION'S NEGOTIATING MANDATE.

FIRST STEPS TOWARDS COOPERATION

TOSCA CAME INTO FORCE ON JANUARY 1, 1977, AND MET WITH STRONG CRITICISM ON THE PART OF THE EUROPEAN INDUSTRY (SEE EUROPEAN REPORT NO. 428). AT THE JUNE 1977 MEETING OF THE OECD CHEMICALS GROUP IN PARIS, THE US EXPLAINED THE PROVISIONS OF THE ACT. IN ITS TURN THE EEC EXPRESSED CONCERN AT THE RESTRICTIONS ON EEC EXPORTS INHERENT IN THE ACT, AND IT WAS SUGGESTED THAT A FURTHER MEETING TAKE PLACE BETWEEN THE TWO SIDES. THEREFORE EXPERTS FROM THE USA'S ENVIRONMENTAL PROTECTION AGENCY AND THE COMMISSION'S ENVIRONMENT AND CONSUMER PROTECTION AND INDUSTRIAL AFFAIRS DIRECTORATES MET IN OCTOBER 1977 AND AGAIN IN JANUARY OF THIS YEAR.

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TOPICS COVERED AT THESE MEETINGS INCLUDED THE HARMONISATION OF TEST PROCEDURES; THE MUTUAL RECOGNITION OF TEST DATA AND LABORATORIES; RISK ANALYSIS; AN INVENTORY OF TOXIC SUBSTANCES; THE CONFIDENTIALITY OF BUSINESS INFORMATION; AND THE ALLOCATION OF COSTS.

THERE WAS GENERAL AGREEMENT THAT THESE SHOULD BE PRIORITY AREAS OF FUTURE DISCUSSION, BUT FROM NOW ON THE DISCUSSION IS LIKELY TO BECOME MUCH MORE TECHNICAL CONCERNING HOW CONTROL MEASURES SHOULD BE APPLIED. COMMISSION SOURCES STRESS THAT, ONCE THE COMMISSION HAS ITS NEGOTIATING MANDATE, TALKS WILL REMAIN OPEN-ENDED AND THERE WILL BE NO FIXED TIMETABLE FOR THE CONCLUSION OF AN AGREEMENT. IN THE FIRST PLACE THE NEGOTIATORS WILL PROBABLY AIM AT ESTABLISHING INVENTORIES OF WHAT EXACTLY IS ENVISAGED BY THE DIFFERENT CONTROL MEASURES, IN PARTICULAR WHAT KIND OF TEST DATA SHOULD BE USED, AND WHAT KIND OF LABORATORY. AT THE MOMENT THERE ARE SEVERAL METHODS OF MEASURING TOXICITY, AND THE TWO SIDES WILL AIM TO ESTABLISH WHICH ARE THE BEST FOR THE PURPOSE OF CONTROL, YET WHICH AT THE SAME TIME WOULD NOT IMPOSE A CHECK ON SCIENTIFIC PROGRESS AND INNOVATION. THE SAME SOURCES INDICATE THAT THE NEGOTIATIONS ARE

LIKELY TO BE DIFFICULT FROM A LEGAL STANDPOINT, ON ACCOUNT OF UNCERTAINTY CREATED BY THE FACT THAT THE EEC'S DRAFT SIXTH MODIFICATION HAS NOT YET BEEN ADOPTED AND THE US ACT HAS NOT YET BEEN IMPLEMENTED.

THE POSITION OF EUROPEAN INDUSTRY

CEFIC, WHICH WAS REPRESENTED AT THE TWO MEETINGS BETWEEN THE EEC AND THE USA IN OCTOBER AND JANUARY, DREW UP A POSITION ON TOSCA AT THE END OF SEPTEMBER 1977. THE CONFEDERATION STRESSED THE "VERY SIGNIFICANT PART IN SOCIAL PROGRESS" PLAYED BY CHEMICALS, AND ITS DESIRE TO SEE MEASURES THAT WOULD AVOID A RESTRAINT ON INNOVATION AND PROGRESS. IT CONSIDERS "THAT REGULATIONS SHOULD BE CAREFULLY ADJUSTED

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IN RELATION TO THE IMPORTANCE OF THE RISK FROM WHICH PROTECTION IS NECESSARY." CEFIC CONSIDERS ALSO THAT TOSCA

"MIGHT CREATE EXCESSIVE CONSTRAINTS," URGES NATIONAL AUTHORITIES TO "ESTABLISH SOUNDLY BASED TEST METHODS CAPABLE OF UNIFORM APPLICATION AND CORRECT INTERPRETATION" AND THAT LABORATORIES SHOULD BE GIVEN CODES OF GOOD PRACTICE. THE EUROPEAN INDUSTRY ALSO STRESSES THE COST OF TESTS AND THE EXCHANGE OF INFORMATION, AND SAYS THAT PARTICULAR ATTENTION SHOULD BE GIVEN TO COST-EFFECTIVENESS. CEFIC ALSO EXPRESSES ITS CONCERN THAT CONFIDENTIAL BUSINESS INFORMATION SHOULD NOT BE DISCLOSED AS A RESULT OF CONTROL MEASURES.

THE CONFEDERATION SAYS THAT TESTS FOR A NEW CHEMICAL PRODUCT CAN COST 500,000 DOLLARS OR MUCH MORE, DEPENDING ON THE PRODUCT AND TAKE THREE YEARS TO CARRY OUT. IF NATIONAL REGULATIONS DIFFER, ONE TEST OF THIS KIND MAY SATISFY

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MARKETING CONDITIONS IN ONE COUNTRY BUT NOT ANOTHER. THE COST OF TESTING IS ONLY THE INITIAL INVESTMENT IN A NEW PRODUCT, SINCE DEVELOPMENT AND PROMOTION HAVE TO FOLLOW. THEREFORE EUROPEAN INDUSTRY IS STRONGLY AGAINST "USELESS" TESTS, I.E., THOSE IT CONSIDERS UNNECESSARY TO THE PROTECTION OF HUMAN HEALTH OR THOSE WHICH DO NOT SATISFY CERTAIN NATIONAL AUTHORITIES AS A RESULT OF DIFFERENCES IN CONTROL REGULATIONS. CEFIC POINTS OUT THAT SWEDISH TOXIC CONTROL LAWS ALREADY CAUSE A CONSIDERABLE BARRIER TO IMPORTS, AND THERE IS CONCERN THAT TOSCA COULD DO THE SAME FOR THE LUCRATIVE AMERICAN MARKET.

MULTILATERAL TALKS

APART FROM THE EEC/US MEETINGS, WORK FOR THE HARMONISATION OF REGULATIONS FOR TOXIC SUBSTANCES CONTROL HAS BEEN PROGRESSING AT OECD LEVEL. LAST YEAR THE OECD'S ENVIRONMENT COMMITTEE CHEMICALS GROUP SET UP SIX EXPERT WORKING GROUPS TO COVER THE AREAS OF PHYSICAL CHEMISTRY, ECOTOXICOLOGY, PERSISTENCE, SUBACUTE TOXICOLOGY, LONG-TERM TOXICOLOGY, AND STEP-SEQUENCE TESTING. THESE GROUPS MET FOR THE FIRST TIME IN WASHINGTON ON FEBRUARY 21-24, AND ARE DUE TO PRESENT THEIR REPORT TO THE CHEMICALS GROUP MEETING IN PARIS 18-20. THE ENVIRONMENTAL COMMITTEE ITSELF WILL MEET THE FOLLOWING WEEK.

IN ADDITION TO THIS ACTIVITY, A HIGH-LEVEL CONFERENCE IS TO TAKE PLACE IN STOCKHOLM APRIL 11-13, WHERE 15 INDUSTRIALISED NATIONS AND SEVERAL INTERNATIONAL ORGANISATIONS WILL TAKE PART IN AN INFORMATION EXCHANGE.

THIS MEETING IS IN FACT OUTSIDE THE OECD CIRCUIT, BUT ALTHOUGH CERTAIN INFORMED SOURCES HAVE DESCRIBED ITS AIMS AS

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"CONFUSING" OR "MYSTERIOUS", OECD SOURCES STRESSED THAT IT IS AN AD HOC EVENT AND CAN ONLY "HELP TO CLARIFY UNDERSTANDING" BETWEEN THE PARTICIPATING COUNTRIES. COMMISSION SOURCES DESCRIBED THE SWEDISH GOVERNMENT'S INITIATIVE AS "POSITIVE", BUT EMPHASISED THAT THE DEBATE WOULD NOT BE EASY, ESPECIALLY SINCE IT WOULD CONCENTRATE ON PRINCIPLES RATHER THAN TECHNICAL ASPECTS. OECD SOURCES INDICATE THAT A CONSENSUS SEEMS TO BE EMERGING ON WHAT IS NEEDED FOR HARMONISATION OF DIFFERENT NATIONAL LAWS ON TOXIC SUBSTANCES CONTROL, AND THAT A HIGH-LEVEL CONFERENCE IS NECESSARY FOR GOVERNMENTS TO BE ABLE TO COME TO SOME AGREEMENT ON THEIR COMMITMENTS, ESPECIALLY REGARDING THE COSTS INVOLVED IN COOPERATION OF THIS KIND.

THE COUNTRIES WHICH WILL BE REPRESENTED AT THE CONFERENCE ARE THE FOLLOWING: AUSTRIA, AUSTRALIA, BELGIUM, CANADA, DENMARK, WEST GERMANY, FINLAND, FRANCE, ITALY, JAPAN, THE NETHERLANDS, NORWAY, SWITZERLAND, THE UK, AND THE USA. THE EEC WILL BE REPRESENTED AS A SEPARATE ENTITY BY MICHEL CARPENTIER, HEAD OF THE COMMISSION'S ENVIRONMENT AND CONSUMER PROTECTION SERVICE, AND WALTER SHAFER, FROM THE INDUSTRIAL AFFAIRS DIVISION. ALSO REPRESENTED WILL BE THE UNITED NATIONS ENVIRONMENT PROGRAM (UNEP), THE UN'S ECONOMIC COMMISSION FOR EUROPE, THE WORLD HEALTH ORGANISATION, THE INTERNATIONAL LABOUR ORGANISATION, AND THE OECD. MAIN POINTS ON THE PROPOSED AGENDA ARE:

- RESOURCE SHARING;
- EARLY WARNING OF CHEMICAL HAZARDS;
- TESTING AND SCREENING PROCEDURES;
- REGULATION AND ENFORCEMENT.

END TEXT. MORRIS

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